



The State of New Hampshire  
**DEPARTMENT OF ENVIRONMENTAL SERVICES**

**Thomas S. Burack, Commissioner**



February 16, 2007

The Honorable James G. Phinizy, Chairman  
House Environment and Agriculture Committee  
Room 303  
Legislative Office Building  
Concord, New Hampshire 03301

**SUBJECT: HB 472-FN, Increasing Fees for Hazardous Waste Management and Contaminated Site Cleanup**

Dear Chairman Phinizy:

Thank you for the opportunity to testify on House Bill 472-FN, which would increase various fees that are paid into the Hazardous Waste Cleanup Fund (HWCF), which was established as a non-lapsing special fund under RSA 147-B in 1981. The fee increases are intended to slow a decline in the fund balance. The bill does not propose any new fees. Rather, it would increase the current fees to a level sufficient to cover the anticipated operating expenses in FY 2008 and 2009 so as to maintain the current level of services. The bill also provides authority for the Commissioner of the Department of Environmental Services (Department) to establish the fees by rule-making after FY 2009, and repeals single program reporting requirements in favor of a comprehensive HWCF annual report. HB 472-FN was introduced by the sponsors at the request of the Department.

RSA 147-B provides authorization and funding for a number of important and very successful hazardous waste-related environmental programs. The HWCF is used to pay for the cleanup of sites contaminated by hazardous waste, emergency response/cleanup activities in the event of a major hazardous waste incident, including acts of terrorism, and cleanup of illegal drug manufacturing locations. The importance of the HWCF to state hazardous waste management, hazardous waste reduction efforts and emergency preparedness cannot be overstated.

HWCF income includes the fee-based revenues that are the subject of HB 472-FN, as well as recovered-costs for Department expenses for managing hazardous waste sites, fines and penalties for regulatory violations, and interest on the fund balance. By statute, certain HWCF income is available for general program use, i.e., is unrestricted, and certain income is designated as restricted-use only. In recent years, unrestricted use income has declined to a level that is not sufficient to support associated program expenses, and that does not provide any excess funds for restricted-use income shortfalls. In two restricted-use program areas, "Brownfields" site redevelopment (RSA 147-F), and small quantity hazardous waste generator self-certification (RSA 147-A:5, IV), income is not adequate for these programs to be self-sustaining.

We are very concerned that the HWCF will become insolvent because the income generated by the fees is declining as less hazardous waste is generated in New Hampshire, while necessary program expenses continue to rise. The Department's latest budget analysis

projects a deficit of \$761,000 each year for FY 2008 and 2009, if fees are not increased. The current HWCF fiscal situation is shown in Table 1, below.

Table 1. Hazardous Waste Cleanup Fund Fiscal Situation

Fiscal Year	Income	Expenses	Annual Income vs. Expense (Deficit) Surplus	Fund Balance
2004	\$1,757,352	\$3,383,267	(\$1,625,915)	\$6,133,824
2005	\$1,696,542	\$2,772,790	(\$1,076,248)	\$5,057,576
2006	\$1,462,640	\$2,130,319	(\$667,679)	\$4,389,897
2007	\$1,303,000	\$2,724,031	(\$1,421,031)	\$2,968,866
2008	\$1,303,000	\$2,063,534	(\$760,534)	\$2,208,332
2009	\$1,303,000	\$2,063,534	(\$760,534)	\$1,447,798

As shown in Table 1, since FY 2004, the Department has taken steps to reduce total HWCF expenses by \$1.32M from 2004 levels to a proposed FY 2008 budget level of \$2.1M. These significant cost savings were obtained through a reduction in full time positions, from 31 to 13, a reduction in contractual expenditures, and a reduction in household hazardous waste collection grants. Despite these re-allocations, HWCF programs are operating at a deficit that will be unsustainable after 2011.

Table 2, attached, presents a detailed summary of HWCF income sources, programs supported, staffing levels for each program, FY 2006 income by program, current program funding shortfalls, and potential revenue increases through HB 472-FN and Department administrative action. The five (5) revenue sources that would be affected by HB 472-FN are shown in blue.

If enacted, HB 472-FN and Department administrative action will help bring overall HWCF revenues and expenditures into balance, as shown in Table 3, below:



Table 3. Hazardous Waste Cleanup Fund Fiscal Situation  
With Increased Revenues

Fiscal Year	Income	Expenses	Annual Income vs. Expense (Deficit) Surplus	Fund Balance
2004	\$1,757,352	\$3,383,267	(\$1,625,915)	\$6,133,824
2005	\$1,696,542	\$2,772,790	(\$1,076,248)	\$5,057,576
2006	\$1,462,640	\$2,130,319	(\$667,679)	\$4,389,897
2007	\$1,303,000	\$2,724,031	(\$1,421,031)	\$2,968,866
2008	\$2,086,646	\$2,063,534	\$23,112	\$2,991,978
2009	\$2,086,646	\$2,063,534	\$23,112	\$3,015,090

Additional steps, however, will be necessary to further reduce unrestricted program expenses to eliminate the remaining deficit shown in Table 2. Actions under consideration include program re-structuring and consolidation and the transfer of approximately \$170,000 in household hazardous waste program costs to the solid waste program, in the event that a new solid waste fee/solid waste fund is enacted by the Legislature.

In summary, the HWCF provides essential funding for state oversight of contaminated site cleanup, contaminated site redevelopment assistance, education and training in the proper management and reduction of hazardous wastes, grants for collection of household hazardous wastes and used oil, pollution prevention training and assistance, and regulatory enforcement. Enactment of HB 472-FN into law is critical to maintaining these needed services into the future.

We appreciate the opportunity to testify on this bill. If you have any questions regarding this matter, please do not hesitate to call me at 271-2958 or Waste Management Division Director Anthony P. Giunta, P.G., at 271-2905.

Sincerely,



Thomas S. Burack  
Commissioner

Attachment

cc: Members of the Environment and Agriculture Committee  
(inc. Rep. Powers, Beaulieu, and Knox)  
Senator Fuller Clark

**Table 2. Hazardous Waste Cleanup Fund (RSA 147-B) Income Sources, Program Expenses & The Effect of HB 472-FN**

Income Sources	Programs Supported & Number of Personnel Assigned	Proposed FY 2008 Budget	Activity: Gallons, Pounds or Other	Existing Fee Structure				Proposed Fee Structure Under HB 472-FN and Administrative Increases		
				Existing Fee	Year Established	FY 2006 Income	Income vs. Expense (Deficit) Surplus (See Note 3)	Proposed Fee	Estimated Income	Income vs. Expense (Deficit) Surplus (See Note 3)
(See Note 1)			(See Note 2)							
<b>Unrestricted Use Income</b>										
<b>Large Quantity Hazardous Waste Generator Fees, RSA 147-B:8</b>	Pollution Prevention (2 positions), Household Hazardous Waste Grants (1 position), Compliance Program Administrator (1 position), State	\$1,290,731	9,800,000	\$0.03	1990 (HB 1501-FN)	\$253,631		\$0.06	\$588,000	
Fines & Penalties, Regulatory Enforcement Under RSA 147-A			NA	Various (by rule)	NA	\$139,202	(\$540,249)	25% Increase (by Rule)	\$174,003	(\$94,354)
Cost Recovery of DES contaminated site management, under RSA 147-A	Contaminated Sites Management (1 position), Hazardous Waste Activity Tracking (1 position)		NA	NHDES personnel and contractor costs (by Policy)	NA	\$159,759		NHDES personnel and contractor costs (by Policy)	\$250,000	
Interest on Fund Balance			NA	NA	NA	\$191,640		NA	\$175,000	
<b>Restricted Use Income</b>										
Used Oil Program, RSA 147-B:12 & 13	Used Oil Management & Collection Center Grants (1 position)	\$147,777	9,996,100	\$0.02	1997 (HB 771-FN)	\$199,922	\$52,145	\$0.02	\$199,922	\$52,145
<b>Hazardous Waste Permit Fees, RSA 147-A:4, II and Permit by Rule</b>	"RCRA" facility permits and other activities	Available for Administrator position, above	NA	Various	Before 1989	\$6,250	NA	50% Increase (Statute & Rule)	\$9,375	NA
<b>"Brownfields" Program, RSA 147-F:14 and RSA 485:3</b>	Management of Brownfields contaminated sites (2 positions)	\$228,688	NA	Various	1996 (HB 1536-FN)	\$169,826	(\$58,862)	Approx. 60% Increase	\$271,722	\$43,034
Hazardous Waste Coordinator Certification Program - RSA 147-A:5, III(b)	Training and certification for large quantity hazardous waste generators (1 position)	\$108,561	1,045	\$125	2002 (HB 1102)	\$130,380	\$21,819	\$125	\$130,625	\$22,064
<b>Small Quantity Generator fees - RSA 147-A:5, IV</b>	Training for small quantity generators, waste activity tracking and hazardous waste management (3 positions)	\$287,763	3,200	\$60	2003 (HB 578-FN)	\$195,980	(\$75,733)	\$90	\$288,000	\$24,387
<b>Hazardous Waste Activity Notifications, RSA 147-A:6-a</b>			161	\$100		\$16,050		\$150	\$24,150	
<b>Totals:</b>						<b>\$1,462,640</b>	<b>(\$600,880)</b>		<b>\$2,086,646</b>	<b>\$47,276</b>

Notes:

- 1.) Hazardous Waste Cleanup Fund (HWCF) income is variously designated as restricted use and unrestricted use, by statute. The five (5) income categories affected by HB 472-FN are shown in blue.
- 2.) HWCF fee-based income categories vary and include pounds of waste generated, gallons of oil imported, flat fees per waste generator facility, or events, e.g., waste activity notifications.
- 3.) Unrestricted income surplus, if any, is available to maintain sufficient balance in the HWCF for a major cleanup event. Based on fee collections history, the majority of the current fund balance is likely unrestricted income.